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SUBJECT: DELAYS IN AUSTRALIAN NATIONAL BROADBAND NETWORK

REF: A. A) CANBERRA 401

[B. B\) CANBERRA 375](#)

[C. C\) 2007 CANBERRA 449](#)

[1. \(SBU\) Summary:](#) Progress on the National Broadband Network (NBN) has been slower than expected. The original deadline (July 25) for bids will slip, primarily due to Telstra's delay in providing network information to the GOA for other bidders. We expect an announcement that this information has been provided soon, with bids due perhaps in November and a GOA decision probable in February or March 2009. A Senate inquiry organized by the opposition will be critical of the Rudd Government's handling, but should not delay the tender process. The request for submissions on regulatory issues surrounding NBN brought a spate of recommendations from competitors and most Australian state governments to structurally separate Telstra. After a warm beginning, relations between Telstra and the Rudd Government have begun to deteriorate. Telstra threatens "endless" legal action over any attempt to impose structural separation. End summary.

#### SLIPPING TIMELINES

[2. \(SBU\) Progress](#) has been slower than expected on one of the top campaign promises of 2007, the establishment of a National Broadband Network (NBN). Originally, the Department of Broadband, Communications, and the Digital Economy (DBCDE) set a July 25 deadline for the submission of proposals from interested bidders. However, after complaints from bidders that they would not be able to submit a bid without detailed technical network data from Telstra (ref A), that deadline has been set aside, and DBCDE has assured bidders that they will be given 12 weeks to review the network information from Telstra - which has yet to be released. Brian Kelleher of DBCDE told econoff July 10 that "unofficially" he expected an announcement in the next two-to-three weeks that Telstra has provided the necessary network information to DBCDE, which would pass it on to the registered bidders. That would start the clock, which would see bids due to DBCDE in approximately mid-November.

[3. \(SBU\) A mid-November date](#) for bids means the GOA will not meet DBCDE Minister Stephen Conroy's earlier pledge to break ground on the NBN in 2008. Per Kelleher, it will take DBCDE at least eight weeks to assess the bids on their technical and commercial/cost merits, to determine how well they satisfy the GOA's objectives (including reaching 98% of premises) and another four-plus weeks for Conroy and the Cabinet to make a final decision (note: this may be optimistic since the combined Christmas-and-summer holidays

frequently slow the pace of government in December and January). That pushes the end of these deliberations to February or March, when the GOA is in the annual throes of preparing its budget for release in early May. That deadline could focus the Rudd Government's attention on getting the NBN announced and funded quickly, or could possibly cause further delays because of the all-absorbing budget process.

#### SENATE INQUIRY

¶4. (SBU) The Senate (controlled by the Coalition until July 1 when the new Senate, based on the November 24 2007 election results, was seated) in late June announced a Senate Select Committee inquiry into the Rudd Government's broadband plans. Claiming "a background of broken deadline promises, cost blow-outs, consumer anxiety and regulatory uncertainty," Liberal Party shadow minister Bruce Billson wants to "canvas competing interests and look at the facts to make sure the right public policy settings are taken." Billson said they will also talk to the telcom industry, which he describes as "excessively gagged" by the GOA's tender process. The Committee is due to report to the Senate in March 2009. (Comment: that report will not be completed in time to influence the GOA's decision. That underscores the fact that this is primarily a point-scoring tactic for the opposition to use in criticizing Conroy's handling of the NBN; this ongoing inquiry will be a minor complication for the GOA to handle.)

#### GRUMBLING ABOUT TELSTRA AND CALLS FOR STRUCTURAL SEPARATION

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¶5. (SBU) As part of the NBN, DBCDE had called for submissions on regulatory aspects of the broadband plan. By the late June deadline, at least 80 submissions had been received, from state governments, equipment providers, user associations, interested companies such as Google, Skype, and Intel, private individuals, and Telstra, Singapore-based Optus, Primus and other telcoms. Many of the submissions focused on the merits of structural separation for Telstra, splitting Telstra's network business from its retail operations. The state governments of New South Wales, Western Australia, South Australia, Queensland, and long-time Telstra critic Tasmania (all states but Victoria) all called to varying degrees for structural separation, as did Optus, Primus and the other telcom providers, and others such as Google and Skype. Telstra characteristically issued a lengthy and vociferous series of submissions defending its structure and asserting that its vertically-integrated model has great benefits for the market.

#### GRUMBLING BY TELSTRA

¶6. (SBU) The Telstra-Conroy truce is over. After the November election there was an era of good feelings between Telstra and Minister Stephen Conroy. Conroy, in Telstra's eyes, had the fine quality of NOT being Helen Coonan, the Howard Government's last Minister for Communications, who had gone toe-to-toe with Telstra in some extraordinarily nasty public squabbles about phone and internet services that helped prompt Coonan to float publicly the idea of imposing structural separation on Telstra.

¶7. (SBU) Industry insider David Forman, head of the Competitive Carriers Coalition and the husband of Senator Kate Lundy (of the ruling Australian Labor Party) told econoff that Conroy during recent Senate estimates hearings declined to say anything about structural separation. But Forman claimed that Conroy has been "stoking the fires" of structural separation in private, and Telstra has come to the realization that this idea is back in play. A CitiGroup analyst in a note to clients wrote that Telstra's plan as currently outlined is unlikely to win the NBN bid, and JP Morgan recently issued a report laying out the benefits of

structural separation and calling it a valid alternative for the GOA.

¶8. (SBU) In late June, Telstra chairman Donald McGauchie fired the first public shots at the Rudd Government. McGauchie promised "endless litigation" should the GOA ever try to impose structural separation on the former monopoly telcom. He also said that Telstra would only bid to build the NBN if it could both own and operate it. McGauchie also criticized the GOA for only offering a A\$4.7 billion contribution to the NBN, complaining that to achieve penetration to 98% of Australian residences would cost A\$25 billion. This brought a quick public rejoinder from Conroy, who dismissed McGauchie's complaints and acidly noted that just the week before Telstra had estimated the NBN would cost A\$15 billion. In any case, DBCDE says the A\$4.7 billion is a hard limit on what the Australian government will kick in.

THE BIDDERS ARE IN

¶9. (SBU) Several organizations have put up A\$5 million bonds to be registered as bidders for the NBN, either on a national or state level. They include Telstra, Optus, Terria (a Qor state level. They include Telstra, Optus, Terria (a consortium of smaller telcoms), Macquarie Bank, the Tasmanian state government, TransACT (an ISP in the Australian Capital Territory), and Acacia. Macquarie Bank later announced that it would join Telstra in the bidding, a move seen by one industry analyst as a ploy to get into the NBN game without having to commit any of its own resources by convincing Telstra to buy it out of an independent bid. Telstra, Optus, and Terria are bidding on the national level; the other bids are all for within one state or territory. Under the tender, it is possible for the GOA to award the national contract to one bidder but give state awards to other bidders, if they see the state-based bid(s) as competitive on costs and technically compatible with the national winner. The TransACT, Tasmanian Government, and Acacia (Victoria) efforts are seen as compatible with the Terria national bid, and could possibly merge their proposals into one.

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COMMENT

¶10. (SBU) DBCDE and Conroy's office have been keeping this entire process very much under wraps. They have conducted a series of meetings with entities that have ponied up the A\$5 million bond to explain technical issues and answer questions, but have been very cautious to avoid any appearance of conflict of interest. Even in talking to the Embassy, DBCDE and Conroy's office have been unwilling to confirm anything that hasn't been made public already. Despite the bickering with Conroy, Telstra is still clearly a strong candidate for the NBN contract, but is no longer seen as a lock to win. Rumors that they will leave Australia very soon surround Telstra's controversial American CEO Sol Trujillo and his even more controversial American director for public affairs Phil Burgess. Forman, whose professional distaste for Telstra has probably been strengthened by Telstra's recent blog attacks on his wife Senator Kate Lundy for her critical statements and questions (on behalf of Conroy, Forman said) about Telstra in the Senate, passed on reports that Trujillo's house in Colorado is being prepared for his early return, and suggests that Conroy and DBCDE will wait for new Telstra leadership before making any decision. In any case, Telstra's renewed public campaign against the GOA and against its regulator the Australian Competition and Consumer Commission, could harden attitudes within the Rudd Government against the dominant telcom.

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